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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,263	12/27/2000	Masahiro Tada	04329.2485	4763

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EXAMINER

DAVIS, TEMICA M

ART UNIT PAPER NUMBER

2681

DATE MAILED: 10/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/748,263

Applicant(s)

Tada

Examiner

Temica M. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 27, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8, 13, and 14 is/are allowed.
- 6) ☒ Claim(s) 1, 9, 11, and 15 is/are rejected.
- 7) ☒ Claim(s) 2-6, 10, 12, and 16 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Retzer et al (Retzer), U.S. Patent No. 6,009,325.

Regarding claims 1 and 11, Retzer discloses the apparatus/method in which a communication channel and a control channel are exclusively assigned to a radio communication resource to be used, said apparatus comprising: means for executing data transmission/reception using the communication channel; means for executing a control procedure required for establishment of a radio link using the control channel (col. 4, lines 21-28, col. 4, lines 37-38); means for monitoring a traffic of the communication channel (col. 4, lines 21-25); and means for dynamically controlling an execution timing or execution time interval of the control

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procedure on the basis of the traffic detected by said monitoring means (col. 4, lines 26-27, col. 4, lines 50-61).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osawa, U.S. Patent No. 5,621,732 in view of Katsuki, U.S. Patent No. 6,366,792.

Regarding claims 9 and 15, Osawa discloses a communication apparatus/method capable of inherently being driven by a battery and simultaneously connecting to a plurality of remote terminals, said apparatus comprising: means for periodically executing transmission processing of a terminal search message for searching for a remote terminal or terminal search wait processing for detecting the terminal search message and responding thereto; and means for dynamically controlling an execution timing or executing time interval of the transmission processing of the terminal search message or the terminal search wait processing (col. 4, line 47-col. 5, line 11).

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Osawa, however, fails to disclose means for detecting a residual capacity of the battery and wherein the controlling of the execution timing or executing time interval is controlled based on the detection result of a residual capacity.

In a similar field of endeavor, Katsuki discloses a radio portable information terminal and radio data transmitting receiving system. Katsuki further discloses means for detecting a residual capacity of a battery and wherein controlling of execution timing or a executing time interval is controlled based on the detection result of a residual capacity (col. 4, lines 14-58).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Osawa with the teachings of Katsuki for the purpose of ensuring that a connection isn't lost due to a depleted battery.

*Allowable Subject Matter*

5. Claims 2-6, 10, 12 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 7, 8, 13 and 14 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 7 and 13, prior art fails to suggest or render obvious a user interface for

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setting preferentiality related to one of the data transmission/reception and the control procedure in accordance with a user operation; and means for controlling an execution timing or execution time interval of the control procedure on the basis of a setting result of said user interface means.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday from 7:00 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Sinh Tran, can be reached on (703) 305-4040.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service at (703) 306-0377.

**Any response to this communication should be mailed to:**


Commissioner of Patents and Trademarks  
Washington, DC 20231

**Or faxed to:**

(703) 872-9314 (for any communications intended for entry).

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

TMD  
October 20, 2003

  
**TEMICA M. DAVIS**  
**PATENT EXAMINER**